

## **REMARKS**

### **I. Overview**

These remarks are set forth in response to the Latest Non-Final Office Action. Presently, claims 22-51 are pending in the Patent Application. Claims 22, 32, and 42 are independent in nature. Claims 1-21 have been cancelled previously. In the Latest Non-Final Office Action, claims 22-51 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hesmer (“Portlet Development Guide” Edition 1.1, pp. 1-59 issued on January 30, 2002).

*In response, although Applicant disagrees with the rejections, Applicant has modified the language of independent claims 22, 32, and 42 in an effort to even more clearly define the Applicant’s invention and to facilitate the prosecution. No new matter has been introduced.*

### **II. Rejections Under 35 U.S.C. § 102(b)**

On pages 3-6 of the Latest Non-Final Office Action, Examiner rejects claims 22-51 under 35 U.S.C. § 102(b) as being anticipated by Hesmer. With respect to Examiner’s determination of anticipation, it is noted that The

factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.<sup>1</sup> Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art.<sup>2</sup> Absence from an allegedly anticipating prior art reference of any claimed element negates anticipation.<sup>3</sup> It is the Applicant's position that Examiner has failed to locate all claimed teachings of claim 22, 32, and 42 in the single, Hesmer reference.

Specifically, in as much as claims 22, 32, and 42 recite similar operative portions, exemplary claim 22 sets forth a method for managing a collection of associated portlets. For the convenience of Examiner, claim 22 is reproduced herein as follows:

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<sup>1</sup> In re Schreiber, 128 F.3d 1473, 1477 (Fed. Cir. 1997) ("To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently"), In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

<sup>2</sup> See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

<sup>3</sup> Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 1571 (Fed. Cir. 1986)(emphasis added).

22. (Currently Amended) A method, within a portal server hardware system, for managing a collection of associated portlets comprising:  
initiating, by the portal server hardware system, a plurality of portlets associated with one another in a portlet application;  
creating, by the portal server hardware system, a shared portlet application session object for the associated portlets; and  
calling, by the portal server hardware system, a web application using the shared portlet application session object, wherein the shared portlet application session object accessible by and storing session data for each of the plurality of associated portlets.

Integral to claim 22 (and also claims 32 and 42) is the initiation of a plurality of portlets associated with one another and the creation of a shared portlet application session object for the associated portlets, which is accessible by and storing session data for each of the plurality of associated portlets. In this way, the information displayed by the associated portlets can be coordinated. Applicant submits that these limitations are not disclosed by Hesmer.

On pages 10 and 11 of the amendment dated February 16, 2010 Applicants argued as much. Notwithstanding, at page 3 of the Latest Non-Final Office Action, Examiner argues to the contrary. Specifically, Examiner argues:

*Hesmer* discloses Context Parameters, such as Attributes, that are "common to all portlets within the portlet application...", see page 19. The Applicant gives an example of a default language being stored as French in the shared portlet application session object so all portlets can access said shared object and open in French. Similarly, *Hesmer* gives the example of

the group of portlets sharing a context parameter called Webmaster that contains the portal site's email address, wherein each portlet could get the email address value from the shared session object to provide a "mailto" link within their individual portlet session, see Page 19.

Thus, Examiner believes the teaching of the sharing of a parameter by different portlets in a portal is equivalent to the claimed "shared portlet application session object".

Referring to the teachings of Hesmer in greater detail, while Hesmer discloses a portlet container including several portlets that run inside the portlet container, Hesmer does not disclose that the portlets are associated with one another let alone shared. More particularly, Hesmer does not disclose the creation of a shared portlet application session object for the associated portlets, which is accessible by and storing session data for each of the plurality of associated portlets as claimed by Applicants. Rather, as conceded by Examiner, Hesmer discloses in Section 3.6 on page 19 that a portlet can access context parameters "common to all portlets within the portlet application." In explaining sharing a context parameter by a group of portlets, Hesmer provides the following example:

- Attributes

Attributes are name/value pairs available to all portlets within the portlet application. These are defined in the portlet deployment descriptor under the <context-parameter> element. For example, if a group of portlets share a context parameter called "Webmaster" that contains the portal site's administrator email, each portlet could get that value and provide a "mailto" link in their help. Attributes of the context are stored on a single machine and are not distributed in a cluster.

As can be seen from the quoted portion of Hesmer, a group of portlets can share a context parameter called "Webmaster" that contains the portal site's administrator email and each portlet can get the email address and provide a "mailto" link within the portlet.

Examiner will recognize, though, that anticipation under § 102 is a two-step inquiry. The first step is a **proper construction of the claims**. ... The second step requires a **comparison of the properly construed claim to the prior art**.<sup>4</sup> Therefore, the Examiner must (i) identify the individual elements of the claims and properly construe these individual elements,<sup>5</sup> , and (ii) identify corresponding elements disclosed in the allegedly anticipating reference and compare these allegedly corresponding elements

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<sup>4</sup> *Medichem, S.A. v. Rolabo, S.L.*, 353 F.3d 928, 933 (Fed. Cir. 2003) (internal citations omitted).

<sup>5</sup> See also, *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567-68 (Fed. Cir. 1987) (In making a patentability determination, analysis must begin with the question, "what is the invention claimed?" since "[c]laim interpretation, . . . will normally control the remainder of the decisional process"); see *Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (requiring explicit claim construction as to any terms in dispute).

to the individual elements of the claims.<sup>6</sup> Given Examiner's equating of a "shared portlet application session object" as a "shared parameter", this burden has not been met.

In this regard, as set forth in M.P.E.P. 2111, "During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. Specifically, the Federal Circuit's en banc decision in Phillips v. AWH Corp., 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard.<sup>7</sup> Examiner's improper claim construction of "shared portlet application session object" as merely a parameter for a portal and not associated portlets exceeds the legal standard for claim construction during examination and inhibits Examiner's ability to properly compare the cited art to Applicants' claims. Since Examiner has not found that the prior art included each properly construed element

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<sup>6</sup> Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

<sup>7</sup> The Patent and Trademark Office ("PTO") determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364, 70 USPQ2d 1827 (Fed. Cir. 2004). Indeed, the rules of the PTO require that application claims must "conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description." 37 CFR 1.75(d)(1).

claimed in a single prior art reference, Applicant submits that Examiner has not established a prima facie case of anticipation.

### III. Conclusion

Applicant respectfully requests the withdrawal of the rejections under 35 U.S.C. § 102(b) owing to the amendments and foregoing remarks. The Applicant requests that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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